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UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

IN RE:

William J. Broderick

Debtor(s)

Case No.: 19-23977

Chapter: 13

Hearing Date: 12/6/19

Judge A. Benjamin Goldgar

NOTICE OF MOTION

TO: Glenn B Stearns, Chapter 13 Trustee, 801 Warrenville Road Suite 650, Lisle, IL 60532 by electronic notice through ECF
William J. Broderick, Debtor(s), 1270 Forest Ave., Highland Park, IL 60035
Sandra A. Broderick, Co-Debtor, 1270 Forest Avenue, Highland Park, IL 60035
David M Siegel, Attorney for Debtor(s), 790 Chaddick Drive, Wheeling, IL 60090 by electronic notice through ECF

PLEASE TAKE NOTICE that on 12/6/19, at 9:30AM, or as soon thereafter as counsel may be heard, I shall appear before the Honorable Judge A. Benjamin Goldgar, Bankruptcy Judge, in the courtroom usually occupied by him/her at the Park City Branch Court, Courtroom B, 301 Greenleaf Avenue, Park City, Illinois 60085-5725 or before any other Bankruptcy Judge who may be sitting in his/her place and stead, and shall then and there present this Motion of the undersigned, a copy of which is attached hereto and herewith served upon you, and shall pray for the entry of an Order in compliance therewith, at which time you may appear if you so desire.

PROOF OF SERVICE

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed above, as to the Trustee and Debtor's attorney via electronic notice on November 27, 2019 and as to the debtor and co-debtor by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on November 27, 2019.

/s/ Peter Bastianen
Attorney for Movant

Berton J. Maley ARDC#6209399
Rachael A. Stokas ARDC#6276349
Peter C. Bastianen ARDC#6244346
Joel P. Fonferko ARDC#6276490
Brenda Ann Likavec ARDC#6330036
Karl V. Meyer ARDC#6220397
Grant W. Simmons ARDC#6330446
Codilis & Associates, P.C.
15W030 North Frontage Road, Suite 100
Burr Ridge, IL 60527
(630) 794-5300

14-17-02171

NOTE: This law firm is a debt collector.

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed below, as to the Trustee and Debtor's attorney via electronic notice on November 27, 2019 and as to the debtor and co-debtor by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on November 27, 2019.

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Sandra A. Broderick, Co-Debtor, 1270 Forest Avenue, Highland Park, IL 60035

David M Siegel, Attorney for Debtor(s), 790 Chaddick Drive, Wheeling, IL 60090 by electronic notice through ECF

/s/Peter Bastianen

Attorney for Movant

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**MOTION FOR RELIEF FROM THE AUTOMATIC STAY AND CO-DEBTOR STAY OR
IN THE ALTERNATIVE TO DISMISS THE CASE FOR FAILURE TO MAKE PLAN
PAYMENTS**

NOW COMES U.S. Bank National Association, as Trustee for Credit Suisse First Boston Mortgage Securities Corp., Mortgage-Backed Pass-Through Certificates, Series 2004-AR3, (hereinafter "Movant"), by and through its attorneys, Codilis & Associates, P.C., and moves this Honorable Court pursuant to 11 U.S.C. §362(d) and §1301(c) for an Order granting Movant relief from the automatic stay and co-debtor stay, or alternatively, for entry of an order dismissing the case pursuant to 11 U.S.C. §1307, and in support thereof states as follows:

1. This Court has jurisdiction pursuant to 28 U.S.C. §1334 and Internal Operating Procedure 15(a) of the United States District Court for the Northern District of Illinois, Eastern Division;
2. The Debtor is indebted to Movant for which the Movant claims a valid security interest in the property commonly known as 1270 Forest Avenue, Highland Park, IL 60035;
3. Enforcement of this security interest has been stayed automatically by operation of 11 U.S.C. §362 of the Bankruptcy Code upon Debtor filing of this petition on 8/26/19;
4. The Chapter 13 plan herein provides for the cure of the default of said mortgage and maintenance of current payments during the pendency of the proceeding;

5. Pursuant to the plan, Debtor(s) is/are to disburse the current monthly mortgage payments directly to Movant beginning with the first payment due after the filing of the Chapter 13 Bankruptcy (subject to periodic adjustment due to change in escrow);

6. Movant is entitled to relief from the automatic stay under 11 U.S.C. Section 362(d) for the following reasons:

- a) As of 11/07/2019, the Debtor(s) is/are past due for the 9/1/19 payment, and all amounts coming due since that date. Any payments received after this date may not be reflected in this default;
- b) As of 11/07/2019, the total post-petition default through and including 11/1/19, is \$8,851.14. Any payments received after this date may not be reflected in this default;
- c) On 12/01/2019, the default will increase to \$11,801.52 and will continue to increase as additional amounts become due;

7. Said failure to make post-petition mortgage payments is sufficient grounds for relief from the automatic stay for cause pursuant to 11 U.S.C. Section 362(d)(1);

8. That sufficient grounds exist to dismiss this proceeding under 11 U.S.C. §1307 as:

- a) debtor's failure to timely pay post-petition mortgage payments as required under the plan and 11 U.S.C. §1322(b)(2) and (b)(5) constitutes an unreasonable delay that is prejudicial to moving creditor and the case should be dismissed under §1307(c)(1);

- b) debtor's failure to timely pay post-petition mortgage payments as required under the plan and 11 U.S.C. §1322(b)(2) and (b)(5) constitutes "cause" and the case should be dismissed under the general provisions of 11 U.S.C. §1307;
- c) the default in post-petition mortgage payments constitutes a material default under paragraph C of the Chapter 13 plan and case should be dismissed under §1307(c)(6);

9. This Court has authority to order that Rule 4001(a)(3) is not applicable to the order entered in granting this motion, and Movant requests this Court so order;

10. JPMorgan Chase Bank, N.A., services the loan on the property referenced in this Motion for Relief. In the event the automatic stay in this case is lifted/set aside, this case dismisses, and/or the debtor obtains a discharge and a foreclosure action is commenced on the mortgaged property, the foreclosure will be conducted in the name of U.S. Bank National Association, as Trustee for Credit Suisse First Boston Mortgage Securities Corp., Mortgage-Backed Pass-Through Certificates, Series 2004-AR3. Said entity, directly or through an agent, has possession of the promissory note. The promissory note is either made payable to said entity or has been duly endorsed.

11. That the subject note and mortgage are co-signed by Sandra A. Broderick and that to the extent that the co-debtor stay of 11 U.S.C. §1301 applies to real estate loans, it applies to Sandra A. Broderick and grounds exist for relief therefrom under 11 U.S.C. §1301(c)(1) as the co-debtor received an ownership interest in the house and under 11 U.S.C. §1301(c)(3) if the automatic stay is modified therein;

WHEREFORE, U.S. Bank National Association, as Trustee for Credit Suisse First Boston Mortgage Securities Corp., Mortgage-Backed Pass-Through Certificates, Series 2004-AR3 prays this Court enter an Order pursuant to 11 U.S.C. Section 362(d) and Section 1301(c) modifying the automatic stay and co-debtor stay as to Movant, or alternatively, for entry of an order dismissing the case pursuant to 11 U.S.C. §1307, and for such other and further relief as this Court may deem just and proper.

Dated this November 27, 2019.

Respectfully Submitted,

Codilis & Associates, P.C.

By: /s/Peter Bastianen

Berton J. Maley ARDC#6209399
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Peter C. Bastianen ARDC#6244346
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